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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,484	05/14/2008	Franciscus Johannes Maria Van De Weijer	ALG10220P00120US	3658
32116 7590 09/22/2010 WOOD, PHILLIPS, KATZ, CLARK & MORTIMER 500 W. MADISON STREET SUITE 3800 CHICAGO, IL 60661				
EXAMINER SLAWSKI, BRIAN R				
ART UNIT		PAPER NUMBER		
1791				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/585,484

**Applicant(s)**

VAN DE WEIJER ET AL.

**Examiner**

BRIAN R. SLAWSKI

**Art Unit**

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2, 4, 5 and 8-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1, 2, 4, 5 and 8-36 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 August 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

**METHOD FOR PRODUCING CONTAINER PARTS, CONTAINER PARTS, METHOD  
FOR PRODUCING A MULTILAYER FOIL, MULTILAYER FOIL**

***Election/Restriction***

Restriction is required under 35 U.S.C. 121 and 372.

1. This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

I. Group I, claims 1, 2, 4, 5, and 8-21, drawn to a method for producing container parts.

II. Group II, claims 22-30, drawn to a container part.

III. Group III, claims 31-35, drawn to a method for producing a multilayer foil.

IV. Group IV, claim 36, drawn to a multilayer foil.

2. The inventions listed as Groups I–IV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

3. The only technical feature common to all of Groups I–IV—a multilayer foil having a microwave radiation-influencing material layer and at least one material layer that does not influence microwave radiation, and provided with holes through at least the microwave radiation-influencing material layer—is already known in the prior art, as

evidenced by any one of Yoshida et al. (JP 11-138738: Abstract; Fig. 3), Yanase (JP 51-098779: Abstract; Fig. 1-4), or Iwao (JP 53-005284: Abstract; Fig. 1-4). This common technical feature, being known in the art, is therefore not a special technical feature, such that Groups I-IV do not relate to a single general inventive concept.

4. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

1a. A method for producing container parts in which the material layer that does not influence microwave radiation is a closed layer.

1b. A method for producing container parts in which the multilayer foil is provided with through holes.

2a. A container part in which the at least one material layer that does not influence microwave radiation comprises polypropylene.

2b. A container part in which the at least one material layer that does not influence microwave radiation comprises paper.

3a. A method for producing a multilayer foil in which through holes are cut through the multilayer foil by die-cutting.

3b. A method for producing a multilayer foil in which through holes are cut through the multilayer foil by means of a laser beam.

Applicant is required, in reply to this action, to elect a single species corresponding to the elected invention (i.e., if Group I is elected, to elect either species 1a or 1b; if Group II is elected, to elect either species 2a or 2b; and if Group III is elected, to elect either species 3a or 3b) to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: The special technical features of Species 1a and 1b—the multilayer foil of the container part—are not the same in that they are mutually exclusive: the multilayer foil may either have a closed non-microwave-radiation-influencing layer or have through holes penetrating this layer,

but cannot have both. Similarly, species 2a and 2b describe the mutually exclusive technical features of a non-microwave-radiation-influencing layer made of polypropylene in the former case and of paper in the latter case. Species 3a and 3b describe the mutually exclusive technical features of the technique by which through holes are cut in the multilayer foil.

5. The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during

prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.** Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN R. SLAWSKI whose telephone number is (571)270-3855. The examiner can normally be reached on Monday to Thursday, 7:30 a.m. to 5:00 p.m. ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino, can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian R. Slawski/  
Examiner, Art Unit 1791

B.R.S.

/Richard Crispino/  
Supervisory Patent Examiner, Art Unit 1791